

REMARKS

This application has been reviewed in light of the Office Action dated June 23, 2005. Claims 1 and 3-28 are pending in the application. Claim 2 is withdrawn. Claims 1, 4, 6, 23-25, and 28 are amended in a manner that Applicants believe overcome the rejections in the Office Action. Applicants believe that the originally submitted claims are patentable over the materials relied upon by the Examiner. However, claims 1, 4, 6, 23-25, and 28 are amended for clarification purposes only. Support for the amendments can be found throughout the specification and figures of the present disclosure and recite aspects of the disclosure that Applicants are believed to be entitled. Applicants submit that no new matter or issues are introduced by the amendments.

Applicants respectfully submit that in view of the amendments and remarks herein, all claims presently pending in the application are allowable.

Claim Rejections – 35 U.S.C. § 103

In the Office Action, claims 1-6, 11-18 and 23-26 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent Application No 2003/0114797 A1 to Vaillancourt et al. (Vaillancourt '797) in view of U.S. Patent No. 6,004,294 to Brimhall et al. (Brimhall '294).

However, it is respectfully submitted that in light of the amended claims provided herein claims 1-6, 11-18 and 23-26 clearly and patentably distinguish over Vaillancourt '797 in view of Brimhall '294.

Amended claims 1 and 23 of the present application recites, *inter alia*, “[a] medical needle shield apparatus comprising . . . [a] binding member further comprising a retainer extending therefrom such that the retainer is engageable with the needle cannula to prevent inclination of the binding member while the retainer is engaged with the needle cannula . . . the binding member further comprising one or more one drag inducing members that engage the needle cannula during slidable receipt of the needle cannula to create a drag force with the needle cannula, the drag force and second housing facilitating inclination of the binding member relative to a longitudinal axis of the needle cannula once the retainer extends beyond the distal

end of the needle cannula such that the binding surfaces engage the needle cannula to prevent slidable movement of the needle cannula in the extended position of the second housing.”

Niether Vaillancourt '797 or Brimhall '294 discloses or suggests structure as recited in claims 1 and 23. The Vaillancourt '797 or Brimhall '294 patents do not disclose or suggest, *inter alia*, a medical needle shield apparatus comprising a binding member that further comprises a retainer extending therefrom such that the retainer is engageable with the needle cannula to prevent inclination of the binding member while the retainer is engaged with the needle cannula, the binding member further comprising one or more one drag inducing members that engage the needle cannula during slidable receipt of the needle cannula to create a drag force with the needle cannula, the drag force and second housing facilitating inclination of the binding member relative to a longitudinal axis of the needle cannula once the retainer extends beyond the distal end of the needle cannula such that the binding surfaces engage the needle cannula to prevent slidable movement of the needle cannula in the extended position of the second housing.

Because of the above distinctions, it is respectfully submitted that claims 1 and 23 are patentable and not obvious over the over Vaillancourt '797 in view of Brimhall '294. Reconsideration and withdrawal of the rejection is respectfully requested. For the same reasons, claims 2-6, and 11-18 are allowable since they depend on claim 1, and claims 24-26 are allowable since they depend on claim 23.

In the Office Action, claims 7-10, 19-22, and 27 were rejected under 35 U.S.C. § 103 as being unpatentable over Vaillancourt '797 and Brimhall '294 as applied to claims 1 and 23, and further in view of U.S. Patent No. 5,313,958 to Alberto Bauer (Bauer '958).

Niether Vaillancourt '797, Brimhall '294 or Bauer '958 discloses or suggests structure as recited in claims 7-10, 19-22 (which depend on claim 1) and claim 27 (which depends on claim 23). The Vaillancourt '797, Brimhall '294 and Bauer '958 patents do not disclose or suggest, *inter alia*, a medical needle shield apparatus comprising a binding member that further comprises a retainer extending therefrom such that the retainer is engageable with the needle cannula to prevent inclination of the binding member while the retainer is engaged with the needle cannula, the binding member further comprising one or more one drag inducing members that engage the needle cannula during slidable receipt of the needle cannula to create a drag force with the needle

cannula, the drag force and second housing facilitating inclination of the binding member relative to a longitudinal axis of the needle cannula once the retainer extends beyond the distal end of the needle cannula such that the binding surfaces engage the needle cannula to prevent slidable movement of the needle cannula in the extended position of the second housing.

Because of the above distinctions, it is respectfully submitted that claims 7-10, 19-22 (which depend on claim 1) and claim 27 (which depends on claim 23) are patentable and not obvious over the over Vaillancourt '797 and Brimhall '294 and further in view of Bauer '958. Reconsideration and withdrawal of the rejection is respectfully requested.

In the Office Action, claim 28 was rejected under 35 U.S.C. § 103 as being unpatentable over Vaillancourt '797 and Brimhall '294 as applied to claims 1 and 23, and further in view of Bauer '958.

Niether Vaillancourt '797, Brimhall '294 or Bauer '958 discloses or suggests structure as recited in claim 28, which depends on claim 23. The Vaillancourt '797, Brimhall '294 and Bauer '958 patents do not disclose or suggest, *inter alia*, a medical needle shield apparatus comprising a binding member that further comprises a retainer extending therefrom such that the retainer is engageable with the needle cannula to prevent inclination of the binding member while the retainer is engaged with the needle cannula, the binding member further comprising one or more one drag inducing members that engage the needle cannula during slidable receipt of the needle cannula to create a drag force with the needle cannula, the drag force and second housing facilitating inclination of the binding member relative to a longitudinal axis of the needle cannula once the retainer extends beyond the distal end of the needle cannula such that the binding surfaces engage the needle cannula to prevent slidable movement of the needle cannula in the extended position of the second housing.

Because of the above distinctions, it is respectfully submitted that claim 28 (which depends on claim 23) is patentable and not obvious over the over Vaillancourt '797 and Brimhall '294 and further in view of Bauer '958. Reconsideration and withdrawal of the rejection is respectfully requested.


In view of the foregoing amendments and remarks, it is respectfully submitted that claims 1 and 3-28, presently pending in the application are believed to be in condition for allowance. An early notice thereof is earnestly solicited.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney.

Please charge any deficiency as well as any other fees that may become due at any time during the pendency of this application, or credit any over payment of such fees to deposit account no. 19-3542. Also, in the event that any extensions of time for responding are required for the pending application, please treat this paper as a petition to extend the time as required and charge deposit account no. 19-3542 therefor.

Respectfully submitted,

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